

810-6-3-.32 Historical Preservation Authorities.

(1) A historical preservation authority organized pursuant to Article 5 of Chapter 10 of Title 41, Code of Alabama 1975, as amended, is exempt from the payment of sales and use tax on any tangible personal property purchased by the authority provided the purchases are made in the name of the authority, the authority's credit is obligated, and the purchases are paid for with funds belonging to the authority. (Section 41-10-147, Code of Alabama 1975)

(2) (a) The exemption in Section 41-10-147 does not apply to a contractor where the contractor has a construction contract with a historical preservation authority to furnish all materials and labor for use in the performance of the contract. The contractor is the consumer thereof of all materials used in the performance of the construction contract which becomes part of real property. (Sections 40-23-1(a)(10) and 40-23-60(5))

(b) ~~Effective October 1, 2000, the sale to, or the storage, use, or consumption by, any contractor or subcontractor of any tangible personal property to be incorporated into realty pursuant to a contract awarded~~ The sale to, or the storage, use, or consumption by, any contractor or subcontractor of any tangible personal property to be incorporated into realty pursuant to a contract awarded after October 1, 2000 but prior to July 1, 2004, with a historical preservation authority organized pursuant to Article 5 of Chapter 10 of Title 41, Code of Alabama 1975, is exempt from all state, county, and municipal sales and use taxes provided the contractor or subcontractor has complied with Rule 810-6-3-.77 entitled Exemption of Certain Purchases by Contractors and Subcontractors in conjunction with Construction Contracts with Certain Governmental Entities, Public Corporations, and Educational Institutions. (Section 40-9-33, Code of Alabama 1975, **repealed by Act 2004-638, effective July 1, 2004**)

(3) Notwithstanding any of the exemptions outlined above, an individual, partnership, or corporation organized for profit that is or will be treated for federal income tax purposes as the owner of property to which a historical preservation authority has title to, or a possessory right in, is liable for sales or use taxes as if the for-profit entity held title to the property unless the individual, partnership, or corporation would be entitled to use the property pursuant to a lease or other agreement entered into before May 21, 1992, or would be entitled to use the property at some future time pursuant to an inducement **agreement** entered into or adopted before May 21, 1992. For-profit entities, however, may qualify for abatements of certain sales and use taxes pursuant to Chapter 9B of Title 40 of the Code of Alabama 1975. ~~An individual, partnership, or corporation that is not organized for profit is not liable for sales and use taxes under Chapter 9B. Section 40-9B-7 only pertains to private users of private use property. Private user is defined in Section 40-2B-3 as "any individual, partnership, or corporation organized for profit that is or will be treated as the owner of private use property for federal income tax purposes."~~ **Therefore, Section 40-9B-7 does not change the tax exempt status of a non-profit entity for sales and use tax purposes.** (Sections ~~40-9B-4, 40-9B-5, 40-9B-6, and 40-9B-7~~, Code of Alabama 1975)

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Authority: Sections 40-2A-7(a)(5), ~~40-9B-4~~, ~~40-9B-5~~, ~~40-9B-6~~, 40-9B-7, 40-23-1(a)(10), 40-23-31, 40-23-60(5), 40-23-83, 41-10-147, and 40-9-33, Code of Alabama 1975
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